



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
MEC, Inc.
FOR
MEC, Inc. – Main Plant
142 George James Drive, Wytheville, VA
EPA ID No.: VAR000533323
And
MEC, Inc. – Paint Shop
190 Appalachian Drive, Wytheville, VA
EPA ID No.: VAR000533331**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and MEC, Inc., regarding the MEC, Inc. Main Plant and Paint Shop Facilities, for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
2. "CESQG" means a conditionally exempt small quantity generator of hazardous waste, a generator of less than 100 kilograms of hazardous waste in a month and meeting the other restrictions of 40 CFR § 261.5 and 9 VAC 20-81-10.

3. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. "Facilities" or "Sites" means the MEC, Inc. Facilities located at 142 George James Drive (Main Plant) and 190 Appalachian Drive (Paint Shop), both in Wytheville, Virginia.
7. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.
8. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
9. "LQG" means large quantity generator, a hazardous waste generator that generates 1000 kilograms (2200 pounds) or greater of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(a)-(b) and (g)-(l).
10. "MEC" or "Company" means MEC, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. MEC, Inc. is a "person" within the meaning of Va. Code § 10.1-1400.
11. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
12. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
13. "Regulations" or "VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effective date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.
14. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.
15. "SQG" means a small quantity generator, a hazardous waste generator that generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(d)-(f).
16. "SWRO" means the Southwest Regional Office of DEQ, located in Abingdon, Virginia.

17. "Va. Code" means the Code of Virginia (1950), as amended.
18. "VAC" means the Virginia Administrative Code.
19. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.
20. "VSQG" means a very small quantity generator, a hazardous waste generator who generates less than or equal to the following amounts in a calendar month: (1) 100 kilograms (220 lbs.) of non-acute hazardous waste; and (2) 1 kilogram (2.2 lbs.) of acute hazardous waste listed in §261.31 or §261.33(e) of this chapter; and (3) 100 kilograms (220 lbs.) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in §261.31 or §261.33(e) of this chapter. *See* 40 CFR § 262.10, as referenced in 40 CFR § 262.14(a)1.
21. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.

SECTION C: Findings of Fact and Conclusions of Law

1. MEC owns and operates the Facilities in Wytheville, Virginia. At the Main Plant, the Company operates a commercial vehicle fuel tank fabrication facility. At the Paint Shop, corrosion prevention chemical conversion coatings/treatments are applied, the tanks are powder coated/cured and MEK based primer coatings are applied to the interior of the tanks. Operations at the Facilities are subject to the Virginia Waste Management Act and the Regulations.
2. On December 21, 2016, Department staff conducted a Compliance Evaluation Inspection (CEI), inspecting each Facility for compliance with the requirements of the Virginia Waste Management Act and the Regulations. Based on the inspection and follow-up information, Department staff made the following observations:

A) Main Plant:

At the Main Plant, MEC generates the following waste streams:

Aerosol Cans (D001, D035)
Denatured Alcohol Contaminated Wipes/Rags (D001)
Washline Tanks Wastewater/Sludge
Wastewater from Washline Process (D002)
Wastewater treatment sludge – secondary containment
Filter Press Cake
Tank Pressure Test Water/Sludge
Solids from buffing and strippable coating activities

Baghouse dust from buffing and strippable coatings area
Used Oil
Oil Contaminated Debris
UW Lamps

- (1) MEC failed to make an accurate hazardous waste determination on the following waste streams: washline wastewater, washline tanks wastewater/sludge, sludge solid waste pile within the secondary containment system, filter press cake, tank pressure test water/sludge, solvent contaminated wipes and solids from the buffing/strippable coating area.

MEC had not made a hazardous waste determination on the waste streams produced at the Facility. MEC staff did not have Safety Data Sheets (SDS) for products used at the Facility and stated, both during the inspection and later site visits, that they did not know if the wastes in question were hazardous wastes or not.

The requirements to make accurate hazardous waste determinations on the above listed waste streams were satisfied by MEC's submittals received April 13, 2018, July 20, 2018 (dated July 5, 2018) and August 14, 2018.

MEC had not gone through the waste counting process. The requirement to properly count its waste and determine its generator status was satisfied by MEC's submittal received on August 14, 2018. The sludges do not meet the listing for hazardous waste code F019. MEC was effectively operating the Main Plant as a CESQG, which ultimately was correct. Based upon the finalized F019 sludge waste determination, and a change in generator status nomenclature, the Main Plant Facility is operating as a VSQG.

Title 40 of the Code of Federal Regulations [40 CFR] §262.11 as referenced by Title 9 of the Virginia Administrative Code [9 VAC] §262.11 states, "Hazardous waste determination. A person who generates a solid waste, as defined in 40 CFR 261.2, must determine if that waste is a hazardous waste using the following method: (a) He should first determine if the waste is excluded from regulation under 40 CFR 261.4. (b) He must then determine if the waste is listed as a hazardous waste in subpart D of 40 CFR part 261. (c) For purposes of compliance with 40 CFR part 268, or if the waste is not listed in subpart D of 40 CFR part 261, the generator must then determine whether the waste is identified in subpart C of 40 CFR part 261 by either: (1) Testing the waste according to the methods set forth in subpart C of 40 CFR part 261, or according to an equivalent method approved by the Administrator under 40 CFR 260.21; or (2) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used. (d) If the waste is determined to be hazardous, the generator must refer to parts 261, 264, 265, 266, 267, 268, and 273 of this chapter for possible exclusions or restrictions pertaining to management of the specific waste.

- (2) MEC failed to identify all applicable waste codes for hazardous wastes generated. Wastewater is generated in a process line where chemical conversion coating of aluminum takes place. Sludges are generated from a Waste Water Treatment Unit (WWTU) that processes this wastewater. These sludges appear to meet the listing for hazardous waste code F019. MEC had not performed characterization, which includes identifying waste codes. Although not explicitly listed in the NOV, other waste streams with missing waste codes included aerosol cans and solvent wipes.

The requirement to identify all applicable hazardous waste codes for the above listed waste streams was fully satisfied by MEC's submittal received on August 14, 2018. The sludges do not meet the listing for hazardous waste code F019.

40 CFR §262.11 states, "Hazardous waste determination. A person who generates a solid waste, as defined in 40 CFR 261.2, must determine if that waste is a hazardous waste using the following method: (a) He should first determine if the waste is excluded from regulation under 40 CFR 261.4. (b) He must then determine if the waste is listed as a hazardous waste in subpart D of 40 CFR part 261. NOTE: Even if the waste is listed, the generator still has an opportunity under 40 CFR 260.22 to demonstrate to the Administrator that the waste from his particular facility or operation is not a hazardous waste.(c) For purposes of compliance with 40 CFR part 268, or if the waste is not listed in subpart D of 40 CFR part 261, the generator must then determine whether the waste is identified in subpart C of 40 CFR part 261 by either: (1) Testing the waste according to the methods set forth in subpart C of 40 CFR part 261, or according to an equivalent method approved by the Administrator under 40 CFR 260.21; or (2) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used."

40 CFR §261.20 states, "General. (a) A solid waste, as defined in §261.2, which is not excluded from regulation as a hazardous waste under §261.4(b), is a hazardous waste if it exhibits any of the characteristics identified in this subpart. (b) A hazardous waste which is identified by a characteristic in this subpart is assigned every EPA Hazardous Waste Number that is applicable as set forth in this subpart. This number must be used in complying with the notification requirements of section 3010 of the Act and all applicable recordkeeping and reporting requirements under parts 262 through 265, 268, and 270 of this chapter."

3. As a result of receiving follow-up documentation and discussions with MEC, NOV violation numbers 3 through 11 were determined not to apply at the Main Plant and therefore are not included in this Consent Order.

B) Paint Shop:

At the Paint Shop, MEC generates the following waste streams:

MEK Paint Waste (D001, D035 and F005)
Powder coat coating solids
Zinc Sludge
Tank Surface Treatment Wastewater
Tank Surface Treatment Sludge
Tank Surface Treatment Filter Press Cake

- (1) MEC failed to make an accurate hazardous waste determination on the following waste streams generated: methyl ethyl ketone (MEK) paint waste, tank surface treatment wastewater and sludge, zinc sludge, filter press cake, solvent contaminated wipes.

This requirement was partially satisfied by documentation dated and received by DEQ on April 13, 2018 and documentation received July 20, 2018 (dated July 5, 2018). Waste stream characterization forms were submitted for each waste stream. Some characterizations were based on generator knowledge and Safety Data Sheets (SDSs). Some waste streams were analyzed.

Tank surface treatment sludge identified in the original inspection was an episodically generated waste from a cleanout event and is effectively the same (comes from the same process) as the wastewater ("WW") filter press cake. The analytical results for the WW sludge sample of the wastewater filter press cake is being used as a proxy for the tank surface treatment sludge characterization. Therefore, both the tank surface treatment sludge and wastewater filter press cake were considered as fully characterized as non-hazardous per the analysis results received by DEQ on October 2, 2018. Initial total metals analysis results, also received by DEQ on October 2, 2018, indicated that the zinc sludge might be hazardous for D007 Chromium. Based on the results of a TCLP analysis of the same zinc sludge sample, run after submittal of the initial result, with TCLP results for Chromium received by DEQ on October 11, 2018, the zinc sludge is non-hazardous.

Title 40 of the Code of Federal Regulations [40 CFR] §262.11 as referenced by Title 9 of the Virginia Administrative Code [9 VAC] §262.11 states, "Hazardous waste determination. A person who generates a solid waste, as defined in 40 CFR 261.2, must determine if that waste is a hazardous waste using the following method: (a) He should first determine if the waste is excluded from regulation under 40 CFR 261.4. (b) He must then determine if the waste is listed as a hazardous waste in subpart D of 40 CFR part 261. (c) For purposes of compliance with 40 CFR part 268, or if the waste is not listed in subpart D of 40 CFR part 261, the generator must then determine whether the waste is identified in subpart C of 40 CFR part 261 by either: (1) Testing the waste according to the methods set forth in subpart C of 40 CFR part 261, or according to an equivalent method approved by the Administrator under 40 CFR 260.21; or (2) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used. (d) If the waste is determined to be hazardous, the generator must refer to parts 261, 264, 265, 266, 267, 268, and 273 of this chapter for possible exclusions or restrictions pertaining to management of the specific waste.

- (2) MEC failed to identify all applicable waste codes for hazardous wastes generated at the Paint Shop. MEK based paint waste records appear to be missing applicable waste codes. MEK paint waste was identified by MEC on manifests by only the D001 waste code. Waste codes D035 and F005 also apply, but were not listed on the manifests. Wastewater is generated in a process line where chemical conversion coating of aluminum takes place. Sludges are generated from either settling in tanks under the process line, or from Waste Water Treatment Units (WWTUs) that process this wastewater. These sludges appear to meet the listing for hazardous waste code F019.

The requirement to identify all applicable hazardous waste codes for the above listed wastewater and sludges was satisfied with submittal of analysis results on October 2 and October 11, 2018. The sludges do not meet the listed hazardous waste code F019. MEC had stated previously that the Paint Shop does not have aluminum as a raw material, thus eliminating F019 as a potential waste code there. Neither do any characteristic waste codes apply. Updated Waste Characteristic Profiles for the waste streams were also submitted October 11, 2018.

40 CFR §262.11 states, "Hazardous waste determination. A person who generates a solid waste, as defined in 40 CFR 261.2, must determine if that waste is a hazardous waste using the following method: (a) He should first determine if the waste is excluded from regulation under 40 CFR 261.4. (b) He must then determine if the waste is listed as a hazardous waste in subpart D of 40 CFR part 261. NOTE: Even if the waste is listed, the generator still has an opportunity under 40 CFR 260.22 to demonstrate to the Administrator that the waste from his particular facility or operation is not a hazardous waste. (c) For purposes of compliance with 40 CFR part 268, or if the waste is not listed in subpart D of 40 CFR part 261, the generator must then determine whether the waste is identified in subpart C of 40 CFR part 261 by either: (1) Testing the waste according to the methods set forth in subpart C of 40 CFR part 261, or according to an equivalent method approved by the Administrator under 40 CFR 260.21; or (2) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used."

40 CFR §261.20 states, "General. (a) A solid waste, as defined in §261.2, which is not excluded from regulation as a hazardous waste under §261.4(b), is a hazardous waste if it exhibits any of the characteristics identified in this subpart. (b) A hazardous waste which is identified by a characteristic in this subpart is assigned every EPA Hazardous Waste Number that is applicable as set forth in this subpart. This number must be used in complying with the notification requirements of section 3010 of the Act and all applicable recordkeeping and reporting requirements under parts 262 through 265, 268, and 270 of this chapter."

- (3) MEC had not properly counted its waste and determined the hazardous waste generator status at the Paint Shop.

This requirement was satisfied by documentation dated and received by DEQ on January 12, 2018, which indicated that the Facility is operating as a SQG.

40 CFR 262.10 (b) states, “§262.10 Purpose, scope, and applicability.(a) These regulations establish standards for generators of hazardous waste. (b) 40 CFR 261.5(c) and (d) must be used to determine the applicability of provisions of this part that are dependent on calculations of the quantity of hazardous waste generated per month.”

40 CFR §261.5(c) and (d) state, “§261.5 (c) When making the quantity determinations of this part and 40 CFR part 262, the generator must include all hazardous waste that it generates, except hazardous waste that: (1) Is exempt from regulation under 40 CFR 261.4(c) through (f), 261.6(a)(3), 261.7(a)(1), or 261.8; or (2) Is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in 40 CFR 260.10; or (3) Is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under 40 CFR 261.6(c)(2); or (4) Is used oil managed under the requirements of 40 CFR 261.6(a)(4) and 40 CFR part 279; or (5) Is spent lead-acid batteries managed under the requirements of 40 CFR part 266, subpart G; or (6) Is universal waste managed under 40 CFR 261.9 and 40 CFR part 273; (7) Is a hazardous waste that is an unused commercial chemical product (listed in 40 CFR part 261, subpart D or exhibiting one or more characteristics in 40 CFR part 261, subpart C) that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to §262.213. For purposes of this provision, the term eligible academic entity shall have the meaning as defined in §262.200 of Part 262. (d) In determining the quantity of hazardous waste generated, a generator need not include: (1) Hazardous waste when it is removed from on-site storage; or (2) Hazardous waste produced by on-site treatment (including reclamation) of his hazardous waste, so long as the hazardous waste that is treated was counted once; or (3) Spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once.”

- (4) Based upon wastewater treatment permit related records, other waste generation rate information obtained during the inspection and DEQ files, it appears that MEC is generating hazardous waste as a Small Quantity Generator (SQG) at the Paint Shop. Prior to the inspection, no EPA Identification Number had been obtained. MEC’s Paint Shop has, at times, shipped uncharacterized Tank Surface Treatment wastewater off-site to MEC’s Main Plant nearby, and treated it in the wastewater treatment units there. If this wastewater was determined to be hazardous waste, MEC’s Main Plant would have been required to first obtain an EPA Identification Number as a destination facility.

MEC submitted a signed RCRA Subtitle C Site Identification Form to DEQ March 7, 2018 that gave notice of regulated waste activity at the Facility as a SQG of hazardous waste. MEC was issued EPA ID No. VAR000533331 for the Facility.

40 CFR §262.12 states: “EPA identification numbers. (a) A generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Administrator. (b) A generator who has not received an EPA identification number may obtain one by applying to the Administrator using EPA form 8700-12. Upon receiving the request the Administrator will assign an EPA identification number to the generator.

- (5) During the CEI, MEK based paint waste was observed stored in four containers onsite. None of the containers were labeled with an accumulation start date.

This requirement was satisfied by documentation dated and received by DEQ on January 12, 2018.

40 CFR 262.34(a)(2), as referenced by 40 CFR 262.34(d)(4), and incorporated by reference in 9 VAC 20-60-262, states: "The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container."

- (6) During the CEI, MEK based paint waste was observed stored in four containers onsite. None of the containers were labeled with the words "Hazardous Waste" while being accumulated.

This requirement was satisfied by documentation dated and received by DEQ on January 12, 2018.

40 CFR 262.34(a)(3), as referenced by 40 CFR 262.34(d)(4), and incorporated by reference in 9 VAC 20-60-262, states: "While being accumulated on-site, each container and tank is labeled or marked clearly with the words 'Hazardous Waste'".

- (7) During the CEI, MEK based paint waste was observed stored in four containers onsite. Two of the containers were not kept closed except as necessary to add or remove hazardous waste.

This requirement was satisfied by documentation received by DEQ on July 20, 2018 (dated July 5, 2018).

40 CFR Part §265.173 Management of containers.(a) A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.(b) A container holding hazardous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

- (8) No inspections of the <180 day hazardous waste container accumulation areas were being conducted, and no log of inspections was being maintained.

This requirement was satisfied by documentation dated and received by DEQ on January 12, 2018.

40 CFR §265.174 states, "Inspections. At least weekly, the owner or operator must inspect areas where containers are stored... The owner or operator must look for leaking containers and for deterioration of containers caused by corrosion or other factors."

- (9) MEC has not made arrangements to familiarize emergency response teams with the layout of the Facility and associated hazards, and it does not have documentation to show that these authorities have declined to enter into such an agreement.

All aspects of this requirement were satisfied by documentation received by DEQ on July 20, 2018 (dated July 5, 2018) and additional documentation received on September 6, 2018.

40 CFR §265.37 states, “Arrangements with local authorities.(a) The owner or operator must attempt to make the following arrangements, as appropriate for the type of waste handled at his facility and the potential need for the services of these organizations:(1) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;(2) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;(3) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and (4) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility. (b) Where State or local authorities decline to enter into such arrangements, the owner or operator must document the refusal in the operating record.”

- (10) MEC staff was unable to provide documentation associated with SQG Emergency Response requirements, including but not limited to coordination, arrangements and agreements with local police, fire and emergency response agencies and hospitals, posting of Facility emergency coordinator name and phone number, training, or the location of fire extinguishers, fire alarms and spill control materials.

All aspects of these requirements were satisfied by documentation dated and received by DEQ on January 12, 2018 and April 13, 2018.

40 CFR 262.34(d), as referenced in 9 VAC 20-60-262, states: “A generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status provided that: (1) The quantity of waste accumulated on-site never exceeds 6000 kilograms; (2) The generator complies with the requirements of subpart I of part 265 of this chapter, except for §§ 265.176 and 265.178; (3) The generator complies with the requirements of § 265.201 in subpart J of part 265; (4) The generator complies with the requirements of paragraphs (a)(2) and (a)(3) of this section, the requirements of subpart C of part 265, with all applicable requirements under 40 CFR part 268; and (5) The generator complies with the following requirements: (i) At all times there must be at least one employee either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in paragraph (d)(5)(iv) of this section. This employee is the emergency coordinator. (ii) The generator must post the following information next to the telephone: (A) The name and telephone number of the emergency coordinator; (B) Location of fire extinguishers and spill control material,

and, if present, fire alarm; and (C) The telephone number of the fire department, unless the facility has a direct alarm. (iii) The generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies; (iv) The emergency coordinator or his designee must respond to any emergencies that arise. The applicable responses are as follows: (A) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher; (B) In the event of a spill, contain the flow of hazardous waste to the extent possible, and as soon as is practicable, clean up the hazardous waste and any contaminated materials or soil; (C) In the event of a fire, explosion, or other release which could threaten human health outside the facility or when the generator has knowledge that a spill has reached surface water, the generator must immediately notify the National Response Center (using their 24-hour toll free number 800/424-8802). The report must include the following information: (1) The name, address, and U.S. EPA Identification Number of the generator; (2) Date, time, and type of incident (e.g., spill or fire); (3) Quantity and type of hazardous waste involved in the incident; (4) Extent of injuries, if any; and (5) Estimated quantity and disposition of recovered materials, if any.”

- (11) Signed copies of designated facility to generator manifests were not retained as a record at the Facility.

This requirement was satisfied by documentation received by DEQ on July 20, 2018 (dated July 5, 2018).

40 CFR §262.44 Special requirements for generators of between 100 and 1000 kg/mo. A generator of greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month is subject only to the following requirements in this subpart: (a) Section 262.40(a), (c), and (d), recordkeeping; (b) Section 262.42(b), exception reporting; and (c) Section 262.43, additional reporting.

40 CFR §262.40 Recordkeeping. (a) A generator must keep a copy of each manifest signed in accordance with §262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

40 CFR §262.40 Recordkeeping. (c) A generator must keep records of any test results, waste analyses, or other determinations made in accordance with §262.11 for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.

40 CFR §262.20 General requirements. (a)(1) A generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, or a treatment, storage, and disposal facility who offers for transport a rejected hazardous waste load, must prepare a Manifest (OMB Control number 2050-0039) on EPA Form 8700-22, and, if necessary, EPA Form 8700-22A, according to the instructions included in the appendix to this part.

4. On December 18, 2017, based on the inspections and follow-up information, the Department issued Notice of Violation No. NOV-016-1217-HW to MEC for violations at the Main Plant, as described in paragraphs 2.A(1) and 2.A(2), above. As stated in 2.A(3) above, as a result of receiving follow-up documentation and discussions with MEC, NOV violation numbers 3 through 11 were determined not to apply at the Main Plant and therefore are not included in this Consent Order. The Department also issued Notice of Violation No. NOV-017-1217-HW to MEC the same day for violations at the Paint Shop, as described in paragraphs 2.B(1) through 2.B(11), above.
5. On January 12, 2018, MEC submitted written responses to NOV No. NOV-016-1217-HW and to NOV No. NOV-017-1217-HW.
6. On March 7, 2018, Department staff met with representatives of MEC to discuss the violations, including MEC's written response to each NOV.
7. On April 13, 2018, MEC submitted second written responses to NOV No. NOV-016-1217-HW and to NOV No. NOV-017-1217-HW.
8. On July 20, 2018, MEC submitted third written responses to NOV No. NOV-016-1217-HW and to NOV No. NOV-017-1217-HW (documentation dated July 5, 2018).
9. Based on the results of the December 21, 2016 inspections, the documentation submitted on January 12, 2018, April 13, 2018 and July 20, 2018, and the March 7, 2018 meeting the Board concludes that MEC has violated 40 CFR 262.11, 40 CFR 261.20; 40 CFR 262.10(b), 40 CFR 261.5(c) and (d), 40 CFR 262.12, 40 CFR 262.34(a)(2), 40 CFR 262.34(a)(3), 40 CFR 265.173, 40 CFR 265.174, 40 CFR 265.37(a) and (b), 40 CFR 262.34(d), 40 CFR §262.44; 40 CFR §262.40(a) and (c); and 40 CFR §262.20, as described in paragraphs 2.A(1) through 2.A(2) and 2.B(1) through 2.B(11) above.
10. All items have been addressed and "returned to compliance", both at the Main Plant and at the Paint Shop, as documented above.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders MEC, Inc., and MEC, Inc. agrees to pay a civil charge of \$36,015.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

MEC, Inc. shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, MEC, Inc. shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of MEC for good cause shown by MEC, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV Nos. NOV-016-1217-HW and NOV-017-1217-HW, each dated December 18, 2017. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility(ies); or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, MEC admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. MEC consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. MEC declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by MEC to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. MEC shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. MEC shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. MEC shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and MEC. Nevertheless, MEC agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after MEC has completed all of the requirements of the Order;
 - b. MEC petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to MEC.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve MEC from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by MEC and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of MEC certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind MEC to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of MEC.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, MEC voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 05th day of March, 2019.



Jeffrey L. Hurst, Regional Director
Department of Environmental Quality

MEC, Inc. voluntarily agrees to the issuance of this Order.

Date: 1/15/2019 By: Frank Castanon, Vice President of Operations
MEC, Inc.

Commonwealth of Virginia

City/County of Wythe

The foregoing document was signed and acknowledged before me this 15th day of

January, 2019, by Frank Castanon who is
Vice President of Operations of MEC, Inc., on behalf of the corporation.

Amanda Gordon Bentley
Notary Public

7674563

Registration No.

My commission expires: 12-31-20

Notary seal:

